

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Raquel Velasquez	Team: Squad #12	CCRB Case #: 201708992	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 12/04/2016 9:20 PM	Location of Incident: § 87(2)(b) PSA 5 stationhouse	Precinct: 23	18 Mo. SOL 6/4/2018	EO SOL 6/4/2018	
Date/Time CV Reported Tue, 10/24/2017 11:45 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/30/2017 11:07 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Sheila Ramos	24844	953299	PSA 5
2. An officer			PSA 5
3. SGT Brian Ohanlon	02176	935417	PSA 5
4. POM Anthony Baresi	03106	951522	PSA 5
5. POM Artur Espenberg	24642	952713	PSA 5
6. POM Robert Dinuzzo		952689	PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joshua Faranda	31043	938461	PSA 5

Officer(s)	Allegation	Investigator Recommendation
A.SGT Brian Ohanlon	Abuse: Sergeant Brian O'Hanlon entered § 87(2)(b), in Manhattan.	§ 87(2)(b)
B.POF Sheila Ramos	Force: At § 87(2)(b), Police Officer Sheila Ramos used physical force against § 87(2)(b)	§ 87(2)(b)
C.POF Sheila Ramos	Discourtesy: At § 87(2)(b), Police Officer Sheila Ramos spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D.POF Sheila Ramos	Abuse: At § 87(2)(b), Police Officer Sheila Ramos threatened to notify Administration for Children's Services.	§ 87(2)(b)
E.POM Artur Espenberg	Force: At § 87(2)(b), Police Officer Artur Espenberg used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Anthony Baresi	Abuse: At § 87(2)(b), Police Officer Anthony Baresi seized § 87(2)(b)'s property.	§ 87(2)(b)
G.POM Robert Dinuzzo	Discourtesy: At § 87(2)(b), Police Officer Robert Dinuzzo spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.POM Robert Dinuzzo	Discourtesy: At the PSA 5 stationhouse, Police Officer Robert Dinuzzo spoke discourteously to § 87(2)(b)	
I. An officer	Abuse: At the PSA 5 stationhouse, an officer strip-searched § 87(2)(b)	
J. An officer	Abuse: At the PSA 5 stationhouse, an officer damaged § 87(2)(b)'s property.	
	§ 87(2)(g), § 87(4-b)	

### Case Summary

On October 24, 2017, § 87(2)(b) filed this complaint with IAB. The complaint was referred to the CCRB, generating log no. 17-41945, and was received on October 30, 2017.

On December 4, 2016, at approximately 9:20 p.m., Sergeant Brian O’Hanlon, Police Officer Artur Espenberg, Police Officer Anthony Baresi, Police Officer Sheila Ramos, Police Officer Joshua Faranda, and Police Officer Robert Dinuzzo went to § 87(2)(b)’s apartment located at § 87(2)(b) in Manhattan to arrest him on an open complaint report. Under Sgt. O’Hanlon’s supervision, Sgt. O’Hanlon, PO Espenberg, PO Baresi, and PO Ramos entered the apartment (**Allegation A: Abuse of Authority- Entry**, § 87(2)(g)). PO Ramos allegedly grabbed § 87(2)(b)’s hand and pulled her into the bathroom (**Allegation B: Force- Physical Force**, § 87(2)(g)). PO Ramos allegedly told § 87(2)(b) “Shut the fuck up or else I’m gonna call ACS” (**Allegation C: Discourtesy-Word**, § 87(2)(g)) and (**Allegation D: Abuse of Authority- Threat to Notify Administration for Children’s Services**, § 87(2)(g)). PO Espenberg grabbed and pulled § 87(2)(b) (**Allegation E: Force- Physical Force**, § 87(2)(g)). PO Baresi allegedly seized § 87(2)(b)’s box cutter (**Allegation F: Abuse of Authority- Seizure of Property**, § 87(2)(g)). At § 87(2)(b), PO Dinuzzo allegedly told § 87(2)(b) “Yeah, you fucking asshole. You’re gonna get forever behind this shit. You wanna be fucking up officers cause she a female?” “Yeah, mother fucker. You’re going down. You’re going fucking down” (**Allegation G: Discourtesy- Word**, § 87(2)(g)). At the PSA 5 stationhouse, PO Dinuzzo allegedly told § 87(2)(b) “Oh no, take him the fuck out of there. We don’t want no cameras to see this. We don’t want no witnesses” (**Allegation H: Discourtesy- Word**, § 87(2)(g)). While in the holding cell, an unidentified officer instructed § 87(2)(b) to remove all of his clothing (**Allegation I: Abuse of Authority- Strip-search**, § 87(2)(g)). § 87(2)(b)’s cellphone was taken when he was placed under arrest; when the cellphone was returned to him, he noticed that it was burned and cracked (**Allegation J: Abuse of Authority- Property Damage**, § 87(2)(g)). § 87(2)(g), § 87(4-b)

§ 87(2)(b) was charged with § 87(2)(b)

(Board Review 01).

Video evidence for this case was obtained via a cellphone recording taken by § 87(2)(b). The video has audio (**Board Review 02 and 03**).

An attorney was consulted in regards to this case.

### Findings and Recommendations

**Allegation A: Abuse of Authority- Sergeant Brian O’Hanlon entered § 87(2)(b), in Manhattan.**

It is undisputed that Sgt. O’Hanlon, PO Espenberg, PO Baresi, and PO Ramos, under Sgt. O’Hanlon’s supervision, entered § 87(2)(b)’s and § 87(2)(b)’s apartment.

§ 87(2)(b) stated that she was in the apartment with her husband § 87(2)(b) daughter § 87(2)(b) daughter § 87(2)(b) and their pit bull, § 87(2)(b) (who weighs more than 20 pounds). § 87(2)(b) was in the kitchen, blocked off from the rest of the apartment by a gate. § 87(2)(b) heard knocking so she approached the front door, looked through the peephole, and saw the officers. Sgt. O'Hanlon stood closest to the door and said they were looking for § 87(2)(b) spoke through the door and asked why. Sgt. O'Hanlon responded that they wanted to ask § 87(2)(b) questions about something that occurred in the building. § 87(2)(b) placed a door chain on the door and opened the door as far as the chain allowed. Sgt. O'Hanlon immediately placed his foot on the door breach preventing her from closing the door. § 87(2)(b) and § 87(2)(b) stood behind her. Sgt. O'Hanlon asked § 87(2)(b) "He's on parole, right?" and also stated that one of the officers was his parole officer. Sgt. O'Hanlon added, "If you don't let us in, we're going to tell his parole officer to come in right now... You know parole officers can come in at any time, right? If you don't let us in, we're gonna come in." § 87(2)(b) stated, "Listen, I'm gonna let you in. I have nothing to hide. Let him get dressed." Sgt. O'Hanlon responded, "Well, we're not leaving here until you give us § 87(2)(b) told Sgt. O'Hanlon to remove his foot from the door. Sgt. O'Hanlon removed his foot from the door breach and § 87(2)(b) closed the door, removed the door chain, and opened the door. She could not estimate how long she spoken to Sgt. O'Hanlon before opening the door for the officers to enter. The officers immediately rushed into the apartment (**Board Review 04**).

§ 87(2)(b) s statement was consistent with § 87(2)(b) s with the following exceptions noted. § 87(2)(b) approached and opened the door with the door chain on. Sgt. O'Hanlon demanded that § 87(2)(b) opened the door so that they could come inside and said that they were there on behalf his parole officer. § 87(2)(b) told Sgt. O'Hanlon that was a lie. Sgt. O'Hanlon said, "Listen, can you open the door so we can identify the guy? If he's not § 87(2)(b) then we can just leave. But we're not leaving until we get in there." Sgt. O'Hanlon and § 87(2)(b) spoke for approximately twenty minutes. During the entire time, § 87(2)(b) stood behind § 87(2)(b) The officers could see him, but they did not talk to him or ask if he was § 87(2)(b) told § 87(2)(b) to close the door so that he could get dressed and find out what the officers wanted. § 87(2)(b) closed the door. He got dressed and he returned to the door approximately six minutes later. § 87(2)(b) opened the door and the officers entered the apartment. § 87(2)(b) s phone statement was consistent with his verified statement (**Board Review 05**).

§ 87(2)(b) s phone statement was consistent with § 87(2)(b) s with the following exceptions. § 87(2)(b) opened the door with the door chain on and Sgt. O'Hanlon placed his foot in between and tried to push his way in. § 87(2)(b) and § 87(2)(b) stood immediately behind/next to § 87(2)(b) while she spoke to the officers. § 87(2)(b) and § 87(2)(b) did not speak to the officers and the officers did not speak to them. The officers and § 87(2)(b) spoke for approximately three minutes. Sgt. O'Hanlon did not say anything else except that they wanted to speak to § 87(2)(b) and that they were coming for him. § 87(2)(b)

recorded a portion of the incident while the officers spoke to § 87(2)(b). She stopped the recording before the officers entered the apartment (**Board Review 06**).

Video evidence, from a cellphone recording § 87(2)(b) took during the incident, features § 87(2)(b) standing behind the front door of their apartment. The front door opens inwards and is ajar by a few inches. A door chain is on the door. Directly outside the front door, in the hallway, are Sgt. O'Hanlon, PO Espenberg, and PO Baresi. At 00:01, Sgt. O'Hanlon states, "We know he's here. We're allowed to come get him." At 00:02, § 87(2)(b) states, "No you're not allowed to do that. You're not allowed to bust my door. I'm gonna let you in, but you're not gonna bust my door. I have two kids in here." At 00:21, § 87(2)(b) states, "Don't...you said you coming for him for the parole." At 00:25, Sgt. O'Hanlon states, "Okay? We're gonna call her right now." At 00:28, Sgt. O'Hanlon states, "Okay, and we're gonna come through the door with her. She's allowed to visit whenever she wants, right? At 00:31, § 87(2)(b) states, "Of course. You should know that." At 00:33, Sgt. O'Hanlon states, "I do know that. I'm letting you know that. So I'm telling you, just have him come to the door 'cause we need to speak to him, okay?" At 00:39, § 87(2)(b) states, "But... get your foot off my door." At 00:41, Sgt. O'Hanlon makes a quick movement back and the door closes slightly. At 00:43, Sgt. O'Hanlon states, "Okay. I'm telling you. But we're not leaving. We need to speak to him." Sgt. O'Hanlon states, "Listen to me. If he's not the guy we're looking for, which he probably isn't, but we have to check." § 87(2)(b) states, "I'm gonna let you check but don't... don't act like you're gonna bust in my door 'cause I have two kids here." Sgt. O'Hanlon states, "Listen... no one... just have him come to the door." At 01:01, Sgt. O'Hanlon responds, "We would be gone by now. If you let him come to the door. We know he's there." At 01:04, § 87(2)(b) states, "Okay, but you're saying all these other things, like you're gonna arrest me and I didn't do anything." At 01:05, Sgt. O'Hanlon states, "Listen... 'cause you're not letting us talk to him. We just wanna talk to him." At 01:10, § 87(2)(b) states, "You're gonna talk to him. Hold on." At 01:12, the front door closes and the video ends (**Board Review 02 and Board Review 03**).



201708992\_20171218\_1346\_DM.MOV

Sgt. O'Hanlon stated that he, PO Ramos, PO Faranda, PO Espenberg, PO Baresi, and PO Dinuzzo went to the incident location to arrest § 87(2)(b) on an open complaint report. He was wanted for allegedly pushing PO Ramos down a flight of stairs a month before the incident date while she attempted to arrest him for drug possession. § 87(2)(b) had not been identified until the incident date, when Sgt. Robert Rodriguez informed Sgt. O'Hanlon that an unidentified male appeared at the stationhouse and stated that the perpetrator's name was § 87(2)(b) and that he lived at § 87(2)(b). With this information, Sgt. O'Hanlon and PO Ramos filtered through the NYPD photo manager and searched through the photographs of all individuals who resided or had been arrested at § 87(2)(b) and whose name was § 87(2)(b). PO Ramos identified § 87(2)(b) through his photograph. Sgt. O'Hanlon and PO Ramos obtained § 87(2)(b)'s name and date of birth, and learned that he resided at § 87(2)(b) and that he was on parole. Sgt. O'Hanlon met with the abovementioned officers, relayed the anonymous tip and that PO Ramos positively identified

§ 87(2)(b) as the perpetrator, and they discussed a plan to go and apprehend § 87(2)(b). Sgt. O'Hanlon established that they only had an open complaint report and PO Ramos' positive identification of § 87(2)(b). They did not have any warrants or I-cards for § 87(2)(b).

Sgt. O'Hanlon stated that he, PO Baresi, and PO Espenberg went to the apartment door. PO Ramos waited in the hallway, approximately 15 to 20 feet away. PO Faranda and PO Dinuzzo remained downstairs in the lobby throughout the incident. Sgt. O'Hanlon knocked on the apartment door. A male voice and a female voice asked, "Who?" Sgt. O'Hanlon stated, "Police. We're looking for § 87(2)(b)." Both voices replied, "What's this about?" Sgt. O'Hanlon stated, "It's regarding a police investigation. We'd like him to step outside." Sgt. O'Hanlon did not want to have a conversation through the door, because he did not want neighbors to hear, so he said that he would let them know if § 87(2)(b) came outside. The male voice stated, "I'd rather you guys come inside the apartment." Sgt. O'Hanlon stated that he knew § 87(2)(b) was on parole, and that if he did not cooperate with them now, he would be forced to contact § 87(2)(b)'s parole officer and notify her that they need to speak to him regarding a police investigation and that he would be picked up during his parole officer's next visit. He did not know if he said that he would call his parole officer at the moment or later on, but that he would not get away from the situation. Sgt. O'Hanlon did not recall saying, "If you don't let us in, we're gonna tell your parole officer to come in right now. We're gonna go in with them."

Sgt. O'Hanlon added that the front door then opened. He was not sure how much of it opened, but it was not opened all the way. Sgt. O'Hanlon believed that, at some point, there was a door chain on the door because the door had not been open much more than a chain would allow. However, he did not recall whether or not the chain was on. When asked whether he placed his foot in between the door breach, Sgt. O'Hanlon stated that he was standing in the doorway. He did not recall purposely keeping his foot in the doorway and he did not push the door open. The officers wanted § 87(2)(b) to exit the apartment on his own; they did not want to enter the apartment because § 87(2)(b) is a dangerous individual and they did not want to be in an unknown space. Sgt. O'Hanlon could see § 87(2)(b) and § 87(2)(b). He could not see § 87(2)(b) held a cellphone camera. He could hear other people inside the apartment and dogs barking. It sounded very hectic inside the apartment. Sgt. O'Hanlon spoke with § 87(2)(b) and asked that § 87(2)(b) come outside. § 87(2)(b) did not want to exit the apartment. After a couple of minutes, he believed § 87(2)(b) said, in sum and substance, "I'm gonna let you guys in, just let me put the dog away" or "take the chain off the door." He believed § 87(2)(b) closed the door and then reopened it enough to allow the officers to enter. § 87(2)(b) granted the officers consent to enter the apartment to speak with § 87(2)(b). Sgt. O'Hanlon, PO Espenberg, and PO Baresi entered the apartment. The officers proceeded to speak with § 87(2)(b) who was behind § 87(2)(b).

Sgt. O'Hanlon was shown video evidence during his interview. It was addressed that, between 00:20 and 00:31, he states he was going to "call the parole officer and come through the door with her." Sgt. O'Hanlon explained that he stated this because parole officers have the right to visit whenever they want to and officers could call his parole officer, inform her that § 87(2)(b) was wanted regarding a felony assault, and the parole officer could check up on him

and have the officers enter the apartment with her or him for the officers. Parole cannot give officers permission to enter premise, but officers can enter a premise with parole. It was also addressed that, between 00:35 and 00:44, § 87(2)(b) says to “get your foot off the door.” Sgt. O’Hanlon stated that this did not refresh his memory regarding having placed his foot in the doorway. Sgt. O’Hanlon added that, from the way he was speaking to her through the door, he may have, inadvertently, placed his foot in the doorway, but that he did not intend to hold the door open. He attempted to maintain eye contact with § 87(2)(b) and look into the apartment because knew § 87(2)(b) was inside and he wanted to prevent anything “like being approached with a weapon and what not.” He stated that he possibly held the door open for safety reasons. Sgt. O’Hanlon was shown a copy of § 87(2)(b)’s arrest report, which notes that he approved the arrest. His attention was brought to the charges and Sgt. O’Hanlon stated that all of the charges were from original incident in November. He added that there was another complaint report related to the incident that occurred in November, but that PO Ramos may not have attached it to the arrest report (**Board Review 07**).

The Complaint Report and Arrest Report associated with § 87(2)(b)’s arrest on § 87(2)(b) note the original date of occurrence as § 87(2)(b), and not § 87(2)(b). He was charged with § 87(2)(b).

The narrative details that § 87(2)(b) was observed in possession of a controlled substance and, while attempting to apprehend him, he pushed PO Ramos while attempting to resist arrest. As a result, PO Ramos fell down stairs and sustained an injury to her forehead and right wrist (**Board Review 01**).

A request for the original complaint report prepared in reference to the assault against PO Ramos on November 9, 2016 was requested and is pending. However, on May 1, 2018, Sgt. Karolina Wierzchowska, from Housing Investigations, confirmed that an original complaint report was never created (**see IA #95**). § 87(2)(b)’s DAS Snapshot notes that he was on parole at the time of the incident. There is no record of active warrants, I-cards, or open complaint reports at the time of the incident (**Board Review 13**).

PO Espenberg’s statement was consistent with Sgt. O’Hanlon’s with the following exceptions. PO Espenberg did not recall what conversation took place right before § 87(2)(b) opened the door with the door chain. PO Espenberg did not and he did not see any officer place a foot in the door breach. Sgt. O’Hanlon asked, “Could you please open the door?” § 87(2)(b) responded, “No.” § 87(2)(b) was behind § 87(2)(b) and he appeared frantic and walked back-and-forth, stating, “I don’t want to come outside. What do you want?” The officers repeated that they needed to speak to him. PO Espenberg believed that Sgt. O’Hanlon told § 87(2)(b) that they were aware he was on parole and that if he did not cooperate with the police investigation, they would call and inform his parole officer of this. PO Espenberg did not believe that he or any officer said, “We’re not leaving until we get in there” or “If you don’t let us in, we’re gonna come in.” § 87(2)(b) said that he was not going to step outside and told the officers to come inside the apartment instead. § 87(2)(b) opened the door about a minute or two later (**Board Review 08**).

PO Baresi's statement was consistent with Sgt. O'Hanlon's with the following exceptions noted. PO Baresi did not and did not see any officer place a foot in the door breach. Sgt. O'Hanlon spoke to § 87(2)(b) for a few minutes. Sgt. O'Hanlon asked § 87(2)(b) if § 87(2)(b) was home and she said yes. PO Baresi did not recall if there was any follow up conversation. § 87(2)(b) eventually opened the door and allowed the officers to enter the apartment, but he did not recall what conversation took place right before this occurred. PO Baresi did not recall if he or his partners asked to come inside the apartment. The officers did not state that they were not going to leave until they got § 87(2)(b) PO Baresi did not recall whether any officer stated that they would call his parole officer (**Board Review 09**).

PO Ramos did not witness the officers' entry into the apartment (**Board Review 10**).

In People v. Levan, 62 N.Y.2d 139 (1984) the court held that police may not enter a private dwelling to arrest an occupant absent consent, a warrant or exigent circumstances (**Board Review 11**). In People v. Gonzalez, 39 N.Y.2d 122 (1976), the court established that consent is voluntary when it is a true act of will, an unequivocal product of an essentially free and unconstrained choice and that voluntariness is incompatible with official coercion, actual, implicit, overt or subtle (**Board Review 12**).

§ 87(2)(g)  
[REDACTED]

**Allegation B: Force- At § 87(2)(b), Police Officer Sheila Ramos used physical force against § 87(2)(b)**

**Allegation C: Discourtesy- At § 87(2)(b), Police Officer Sheila Ramos spoke discourteously to § 87(2)(b)**

**Allegation D: Abuse of Authority- At § 87(2)(b), Police Officer Sheila Ramos threatened to notify Administration for Children's Services.**

§ 87(2)(b) stated that she was carrying her § 87(2)(b) daughter when the officers entered the apartment. PO Ramos immediately approached § 87(2)(b) grabbed her by her right wrist, and pushed/pulled her into the bathroom. PO Ramos' grabbing caused a scratch on § 87(2)(b)'s right thumb, but she did not seek medical treatment. § 87(2)(b) told PO Ramos, "Let go of me. Why are you grabbing me like that?" PO Ramos told § 87(2)(b) "Shut the fuck up or else I'm gonna call ACS." § 87(2)(b) told PO Ramos, "Get the fuck off my arm." PO Ramos released her wrist (**Board Review 04**).

§ 87(2)(b) also stated that PO Ramos grabbed § 87(2)(b) by the right thumb and shoved her in the bathroom. § 87(2)(b) asked why she pushed her and PO Ramos



replied, “You better shut the fuck up or I’m gonna call ACS on your ass. I’m telling you right now.” § 87(2)(b) did not respond and PO Ramos shut the bathroom door. § 87(2)(b) s phone statement was generally consistent with his verified statement (**Board Review 05**).

§ 87(2)(b) stated that the officers rushed into the apartment and PO Ramos tried to push § 87(2)(b) into the bathroom. PO Ramos stood outside of the bathroom to block § 87(2)(b) from exiting. When § 87(2)(b) tried to look out, PO Ramos grabbed § 87(2)(b) s arm and moved her back inside the bathroom (**Board Review 06**).

PO Ramos stated she was in the hallway outside of the apartment and heard screaming, but she could not make out what was said. PO Ramos approached and entered the apartment approximately a minute later. PO Ramos stood near the bathroom as she was not supposed to interact with § 87(2)(b) PO Ramos asked § 87(2)(b) and § 87(2)(b) to stay inside of the bathroom so that they were not in the middle of the incident. § 87(2)(b) and § 87(2)(b) were compliant and remained in the bathroom. § 87(2)(b) held a baby, was upset, and spoke in Spanish. PO Ramos told § 87(2)(b) to stay calm in Spanish. § 87(2)(b) asked PO Ramos what was going to happen, and PO Ramos told her that nothing was going to happen, and that they needed to speak with § 87(2)(b) at the stationhouse and that they were not going to hurt him. PO Ramos again told her to stay calm. PO Ramos did not physically restrain or make any physical contact with § 87(2)(b) PO Ramos did not recall grabbing § 87(2)(b) s wrist or pushing/pulling her into the bathroom. § 87(2)(b) did not complain of injuries. PO Ramos did not say to § 87(2)(b) “Shut the fuck up or I’m going to call ACS,” or “You better shut the fuck up or I’m going to call ACS on your ass” (**Board Review 10**).

Sgt. O’Hanlon stated that the officers first spoke to § 87(2)(b) in a small hallway and § 87(2)(b) proceeded to move further into the apartment. Sgt. O’Hanlon told § 87(2)(b) that he was under arrest and that he needed to go with them. Both § 87(2)(b) and § 87(2)(b) were visibly upset and acted erratic by crying, screaming, waving their phone at the officers’ faces the entire time, and walking in and out. At some point, they became confrontational and prevented the officers from taking him away by making statements such as, “Please don’t take him.” While the rest of the officers spoke to § 87(2)(b) PO Ramos went to the side, by the bathroom in the hallway, with § 87(2)(b) and § 87(2)(b) and spoke to them. PO Ramos told § 87(2)(b) and § 87(2)(b) “Come over here,” trying to move them away from § 87(2)(b) and § 87(2)(b) complied with PO Ramos’ command to go to the bathroom. Sgt. O’Hanlon did not see PO Ramos make any physical contact with § 87(2)(b) Sgt. O’Hanlon did not and did not see any officer grab § 87(2)(b) by the wrists and pull her into the bathroom. Sgt. O’Hanlon did not and did not hear any officer say to § 87(2)(b) “You better shut the fuck up or I’m gonna call ACS on your ass.” He did not recall there being any conversation regarding calling ACS (**Board Review 07**).

PO Espenberg also stated that § 87(2)(b) was in the living room holding a baby while speaking loudly. He did not see what PO Ramos did when she entered the apartment. PO Espenberg was focused on § 87(2)(b) and the pit bull so he did not see what, if anything, occurred with § 87(2)(b). PO Espenberg did not recall if § 87(2)(b) made any statements or if officers gave her any commands. PO Espenberg did not and did not see any officer grab, push or pull § 87(2)(b). PO Espenberg did not and did not hear any officer say to § 87(2)(b) “You better shut the fuck up, or I’m gonna call ACS on your ass,” or “Shut the fuck up or I’m gonna call ACS.” PO Espenberg did not believe that there was a conversation regarding calling ACS. Additionally, PO Espenberg did not observe anything that would warrant a call to ACS (**Board Review 08**).

PO Baresi did not recall if there was a struggle inside the apartment. PO Baresi did not and did not see any officer make physical contact with § 87(2)(b) or grab, push or pull her arms. § 87(2)(b) did not complain of injuries. PO Baresi did not and did not hear any officer use profanity towards § 87(2)(b) or threaten to call ACS, or say, “You better shut the fuck up or I’m gonna call ACS on your ass” or “Shut the fuck up or else I’m gonna call ACS” (**Board Review 09**).

§ 87(2)(g)

**Allegation E: Force- At § 87(2)(b) Police Officer Artur Espenberg used physical force against § 87(2)(b)**

§ 87(2)(b) stated that PO Ramos walked in the apartment and said, ‘Oh yeah, that’s him,’ referring to § 87(2)(b) who was in the narrow hallway, by the bathroom and § 87(2)(b) stood in front of him. The officers tried to rush towards § 87(2)(b) and attempted to grab him. § 87(2)(b) became afraid and cried; she walked towards § 87(2)(b) told him she was scared, and grabbed him. PO Espenberg could not get passed § 87(2)(b) and there was a struggle between her and PO Espenberg, which lasted approximately two minutes. PO Espenberg grabbed § 87(2)(b) s right arm and attempted to push her. PO Espenberg then grabbed both of § 87(2)(b) s arms in an attempt to pick her up and move her, but she was not going to allow the officer to move because she did not want the officers to hurt § 87(2)(b). PO Espenberg told § 87(2)(b) “Move out of the way. You don’t want to get hurt. Move out of the way and make it easier.” § 87(2)(b) asked PO Espenberg, “Why are you pushing me?” PO Espenberg grabbed and pushed § 87(2)(b) to move her into the living room. § 87(2)(b) sustained a bruise in her right bicep (**Board Review 06**).

§ 87(2)(b) also stated that § 87(2)(b) cried and grabbed onto him. PO Espenberg told § 87(2)(b) “I need you to calm down,” and then grabbed one of her forearm, he was not sure which one, and pushed her to the side to get around her. § 87(2)(b) did not fall. § 87(2)(b) sustained a bruise on her left leg and bruises and scratches on her right arm, but she did not seek medical treatment (**Board Review 05**).

§ 87(2)(b) stated that she remained in the bathroom with PO Ramos. She heard a commotion in the living room, but she could not see what occurred (**Board Review 04**).

PO Espenberg stated that § 87(2)(b) stood behind § 87(2)(b) in the corridor and held her in front of him. The corridor was a little wider than a door. There was a pit bull in the kitchen, located along the corridor, behind a gate. PO Espenberg began approaching § 87(2)(b) to place him under arrest. PO Espenberg approached and stood in front of § 87(2)(b) at arm's distance. § 87(2)(b) moved § 87(2)(b) side-to-side to prevent PO Espenberg from approaching. § 87(2)(b) struck PO Espenberg's arms as he reached out his arms to grab § 87(2)(b). PO Espenberg made multiple attempts to grab § 87(2)(b) and, each time, § 87(2)(b) struck him. § 87(2)(b) struck PO Espenberg at least five times. PO Espenberg told § 87(2)(b) to stop hitting him. PO Espenberg did not react to § 87(2)(b)'s strikes. PO Espenberg did not grab § 87(2)(b)'s arms or push her. The pit bull also nipped the left side of the sweater that PO Espenberg wore. There was some back and forth conversation for a few minutes, because § 87(2)(b) refused to come outside. § 87(2)(b) said, "I'm not going with you." § 87(2)(b) said, "You're not taking him." PO Espenberg attempted to calm the situation down by keeping his hand above his head, with his open palms and out, and stating that he was not going to grab anyone. PO Espenberg walked into the vestibule area behind § 87(2)(b) and did not touch him, but told him that he would accompany him into the bedroom so that he could get whatever clothing he needed. PO Espenberg had to rub his chest against § 87(2)(b)'s body to get behind him, because the corridor was small (**Board Review 08**).

Sgt. O'Hanlon stated that both § 87(2)(b) and § 87(2)(b) were visibly upset and acted erratic by crying, screaming, waving their phone at the officers' faces the entire time, and walking in and out and that, at some point, they became confrontational and prevented the officers from taking him away by making statements such as, "Please don't take him." There was also a dog that kept jumping up and down and the family had to restrain the dog. He believed the dog was in the bathroom. PO Ramos told § 87(2)(b) and § 87(2)(b) to go to the bathroom and they complied. Sgt. O'Hanlon did not see any officer make any physical contact with § 87(2)(b) including grabbing, pulling or pushing her. § 87(2)(b) did not complain about injuries (**Board Review 07**).

PO Ramos also stated that § 87(2)(b) was in between PO Espenberg and § 87(2)(b) and that § 87(2)(b) flailed her arms at PO Espenberg. PO Espenberg had his arms out and told § 87(2)(b) that they were not going anywhere, and that they just wanted to talk. PO Ramos did not and did not see any officer make physical contact with § 87(2)(b) including pushing or pulling her. § 87(2)(b) did not complain of injuries. § 87(2)(b) eventually calmed down and calmed § 87(2)(b) down, and she went into the bathroom (**Board Review 10**).

PO Baresi did not recall if there was a struggle inside the apartment. PO Baresi did not recall where § 87(2)(b) was while Sgt. O'Hanlon spoke to § 87(2)(b). PO Baresi did not and did not see any officer make physical contact with § 87(2)(b). PO

Baresi did not and did not see any officer grab or pull § 87(2)(b)'s arms.  
§ 87(2)(b) did not complain of injuries (**Board Review 09**).

Patrol Guide Procedure 221-02 states that an officer may apply no more than the reasonable force necessary to gain control of an arrestee (**Board Review 14**).

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation F: Abuse of Authority- At § 87(2)(b), Police Officer Anthony Baresi seized § 87(2)(b)'s property.**

§ 87(2)(b) stated that PO Baresi approached a fish tank in the living room and grabbed a box cutter from the top. § 87(2)(b) asked, "Why are you touching that for? That's not yours!" PO Baresi said, "So what? It's in plain view." PO Baresi seized the knife. The knife was not vouchered and it was never returned to § 87(2)(b). He could not describe it further than that the blade is less than four inches (**Board Review 05**).

§ 87(2)(b) also stated that they were all in the living room when PO Baresi grabbed § 87(2)(b)'s box cutter. § 87(2)(b) asked PO Baresi, "What are you doing?" PO Baresi ignored her (**Board Review 04**).

§ 87(2)(b) did not mention this allegation in her statement (**Board Review 06**).

PO Baresi stated that he, PO Espenberg, and Sgt. O'Hanlon entered the apartment and waited in the living room. § 87(2)(b) entered the living room and sat on a couch. PO Baresi noticed and grabbed a box cutter/knife which was on a table, in front of the couch where § 87(2)(b) sat. PO Baresi moved the potential weapon out of § 87(2)(b)'s reach for safety reasons, and placed it on a shelf behind him. PO Baresi did not see any other officer grab the knife. PO Baresi did not and did not see any officer seize the knife (**Board Review 09**).

Sgt. O'Hanlon also stated that there was a box cutter next to where § 87(2)(b) was sitting. Sgt. O'Hanlon stated that he grabbed the box cutter and moved it to a different location in the apartment to prevent § 87(2)(b) from grabbing it. The box cutter was not seized. Sgt. O'Hanlon did not see any officer grab the box cutter or any knife/box cutter from the apartment (**Board Review 07**).

PO Espenberg and PO Ramos stated that they did not take a knife or box cutter from the apartment, and they did not see any officer doing so (**Board Review 08** and **Board Review 10**).

§ 87(2)(g)

**Allegation G: Discourtesy- At § 87(2)(b), Police Officer Robert Dinuzzo spoke discourteously to § 87(2)(b)**

**Allegation H: Discourtesy- At the PSA 5 stationhouse, Police Officer Robert Dinuzzo spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that he was handcuffed and brought down stairs. In a downstairs hallway, PO Dinuzzo got in § 87(2)(b)'s face and said, "Yeah, you fucking asshole. You're gonna get forever behind this shit. You wanna be fucking up officers cause she a female?" "Yeah, mother fucker. You're going down. You're going fucking down." At the PSA 5 stationhouse, while he was in a holding cell, PO Dinuzzo approached and told the rest of the officers, "Oh no, take him the fuck out of there. We don't want no cameras to see this. We don't want no witnesses" (**Board Review 05 and IA #57**).

As of February 28, 2017, PO Robert Dinuzzo was no longer a member of the service (**Board Review 15**).

PO Espenberg, PO Baresi, and PO Ramos denied saying or hearing any officer saying the alleged discourteous statements (**Board Review 08, Board Review 09, and Board Review 10**). Sgt. O'Hanlon did not recall stating or hearing any officer stating the alleged discourteous statements (**Board Review 07**).

§ 87(2)(g)

**Allegation I: Abuse of Authority- At the PSA 5 stationhouse, an officer strip-searched**

§ 87(2)(b)

§ 87(2)(b) stated that he was moved and placed in a holding cell alone. Sgt. O'Hanlon, PO Baresi, and PO Espenberg entered the holding cell. § 87(2)(b) was instructed to face the wall so he was unable to see or identify the voice who gave him the following instructions. He was told him to keep his hands on the wall, and remove his shoes, belt, and pants. § 87(2)(b) complied. He was then instructed to pull his underwear down to his ankle and was instructed to squat and cough. § 87(2)(b) complied. Officers returned § 87(2)(b) his clothes and instructed him to get dressed. § 87(2)(b) wore a tank top, a blue t-shirt, and khaki pants (**Board Review**).

Sgt. O'Hanlon stated that he was present when § 87(2)(b) was brought into the stationhouse, but his last interaction with him was at the front desk. § 87(2)(b) was searched at the front desk, but he was not sure by whom. Sgt. O'Hanlon was not present when § 87(2)(b) was placed in a holding cell. Sgt. O'Hanlon did not authorize any officer to strip-search § 87(2)(b) and he did not see any officer doing so. Sgt. O'Hanlon did not and did not see any officer remove § 87(2)(b)'s pants or instruct him to pull his underwear down (**Board Review 07**).

PO Espenberg stated that he assisted in lodging § 87(2)(b) in the holding cell. He believed § 87(2)(b) was lodged in an empty female holding cell, because there was something going on with the male holding cells, but he did not recall. PO Espenberg believed he searched § 87(2)(b) in the holding cell. PO Dinuzzo was present. PO Espenberg instructed § 87(2)(b) to remove his socks, shoe laces, and any belts and strings, and he complied. PO Espenberg did not and did not hear any officer instruct § 87(2)(b) to remove his pants or pull his underwear down. PO Espenberg did not strip-search § 87(2)(b) or see any officer do so **(Board Review 08)**.

PO Baresi did not recall interacting with § 87(2)(b) at the stationhouse. PO Baresi did not recall assisting in the arrest processing. He did not recall who placed § 87(2)(b) in the holding cells. PO Baresi did not instruct § 87(2)(b) to remove his pants or pull down his underwear, strip-search him or see any officer do so **(Board Review 09)**. PO Ramos stated that she transported § 87(2)(b) back to the stationhouse, but she did not escort him into the stationhouse as she was not supposed to interact with him. PO Ramos did not know if § 87(2)(b) was strip searched **(Board Review 10)**.

There is no record of a strip-search in § 87(2)(b)'s arrest report or in the command log entry of his arrest **(Board Review 01 and Board Review 16)**.

§ 87(2)(g)

**Allegation J: Abuse of Authority- At the PSA 5 stationhouse, an officer damaged § 87(2)(b)'s property.**

§ 87(2)(b) stated that was taken to Manhattan Central Booking. Upon his release, he went to 100 Centre Street to retrieve his cellphone (a gold Galaxy7). He was first told that a voucher was not prepared in reference to his cellphone. He was later told that the cellphone could not be returned to him because it required a cellphone release form. § 87(2)(b) returned to 100 Centre Street approximately two to three weeks later and retrieved his cellphone. The rear of the cellphone was cracked and burnt, and the SIM was also burnt. At the time of the incident, the cellphone was new and did not have any damage to it. § 87(2)(b) only recalled PO Baresi taking his cellphone when he was placed under arrest, but he did not see what occurred to the cellphone thereafter. § 87(2)(b) did not see any officer damaging his cellphone. He stated that he had photographs depicting the damages on his cellphone; however, despite numerous follow-ups, he did not provide these photographs **(Board Review 05)**.

PO Ramos, § 87(2)(b)'s arresting officer, stated that she vouchered § 87(2)(b)'s cellphone. PO Ramos did not recall how she obtained the cellphone. She believed that someone gave it to her, but she did not recall who. PO Ramos did not recall the condition of the cellphone when she received it. PO Ramos did not and did not see any officer damage § 87(2)(b)'s cellphone **(Board Review 10)**.

PO Baresi did not recall who searched § 87(2)(b) and he did not recall if any property was retrieved. PO Baresi did not recall if § 87(2)(b) had a cellphone. PO Baresi did not and did not see any officer damage § 87(2)(b)'s cellphone (**Board Review 09**).

PO Espenberg believed he searched § 87(2)(b) and he did not recall if any property retrieved. He did not recall if § 87(2)(b) had a cellphone. PO Espenberg did not and did not see any officer damage § 87(2)(b)'s cellphone (**Board Review 08**).

Sgt. O'Hanlon did not recall what property was removed from § 87(2)(b) during the search. He did not recall whether a cellphone was retrieved. Sgt. O'Hanlon did not and did not see any officer damage § 87(2)(b)'s cellphone (**Board Review 07**).

A Samsung cellphone was vouchered as investigatory evidence on December 5, 2016. The voucher notes that the cellphone was cracked. The cellphone was returned to § 87(2)(b) on October 12, 2017 (**Board Review 17**).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (**Board Review 21**).

- Sgt. O'Hanlon has been a member of the service for 13 years and has been a subject in 5 CCRB complaints and 13 allegations, of which two were substantiated. § 87(2)(g)
- 201604637, involved substantiated allegations of abuse of authority (vehicle search) and discourtesy (word). The Board recommended command discipline and the NYPD issued formalized training.
- PO Ramos has been a member of service for 5 years and has been a subject in one other CCRB complaint involving six allegations, none of which have been substantiated. § 87(2)(g)
- PO Baresi has been a member of service for 6 years and has been a subject in 4 CCRB complaints and 4 allegations, none of which have been substantiated. § 87(2)(g)
- PO Espenberg has been a member of service for 5 years and has been a subject in 3 CCRB complaints and 15 allegations, none of which have been substantiated. § 87(2)(g)

- 201604637, involved substantiated allegations of abuse of authority (vehicle search) and discourtesy (word). The Board recommended command discipline and the NYPD issued formalized training.

- PO Ramos has been a member of service for 5 years and has been a subject in one other CCRB complaint involving six allegations, none of which have been substantiated. § 87(2)(g)

- PO Baresi has been a member of service for 6 years and has been a subject in 4 CCRB complaints and 4 allegations, none of which have been substantiated. § 87(2)(g)

- PO Espenberg has been a member of service for 5 years and has been a subject in 3 CCRB complaints and 15 allegations, none of which have been substantiated. § 87(2)(g)

## **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of March 23, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**Board Review 22**).

- § 87(2)(b), § 87(2)(c)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- § 87(2)(b), § 87(2)(c)  
[REDACTED]  
[REDACTED]  
[REDACTED]

- [REDACTED]

- § 87(2)(b), § 87(2)(c)

Squad No.: 12

Investigator: \_\_\_\_\_  
Signature                      Print Title & Name                      Date

Signature

---

Print Title & Name

Date \_\_\_\_\_

Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
-----------	--------------------	------

Signature

Print Title &amp; Name

Date \_\_\_\_\_



Reviewer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date